Chisley v. Kauffman et al Doc. 12

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

LAVON CHISLEY,	:	**Civil No. 4:16-CV-1980**
	:	
Petitioner,	:	
	:	**(Judge Brann)**
v.	:	
	:	**(Magistrate Judge Carlson)**
SUPERINTENDENT KEVIN KAUFFMAN, et al.	:	
	:	
Respondents.	:	

MEMORANDUM ORDER

The background to this order is as follows:

The petitioner, LaVon Chisley, filed a petition for writ of habeas corpus with this court on September 29, 2016. (Doc. 1). Chisley was convicted in 2007 of first-degree murder and was sentenced by the trial court to life imprisonment. The petitioner now seeks to have his first-degree murder conviction vacated and a new trial ordered, based on his claims that the trial court denied him a fair trial, that he received an illegal sentence, and that both his trial and appellate counsel rendered ineffective assistance. (Id.)

The respondents filed their response to this petition on January 27, 2017, arguing that Chisley's petition was unexhausted. (Doc. 9-1). At the time the response was filed, Chisley's Petition for Allowance of Appeal was pending in the Pennsylvania Supreme Court. (Id., at 11). Subsequently, on January 31, 2017, the

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Pennsylvania Supreme Court denied Chisley's Petition for Allowance of Appeal. Commonwealth v. Chisley, 165 A.3d 897 (Pa. 2017). Thus, any claims that Chisley raised in his appeals have now completed one round of the state appellate process. See O'Sullivan v. Boerckel, 526 U.S. 838, 844-45 (1999) (finding that a petitioner properly exhausts claims in state court "by invoking one complete round of the State's established appellate review process").

Given that Chisley's claims have now gone through the state appellate process, in order to thoroughly review the instant habeas petition, IT IS ORDERED THAT the respondents file a response to the petition addressing any outstanding exhaustion issues, as well as the merits of Chisley's claims, on or before **May 9, 2019.**

So Ordered this 11th day of April, 2019.

/s/ Martin C. Carlson
Martin C. Carlson
United States Magistrate Judge